

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the specification, paragraph [0001] has been amended on page 1.

Claims 1, 3, 12, 21 and 55 are currently being amended.

Claims 43-54 are requested to be canceled without prejudice or disclaimer.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-17, 20-39 and 55-60 are now pending in this application.

SPECIFICATION

The Office Action objected to the disclosure because the status of related applications has not been updated. Applicants have amended paragraph [0001] on page 1 to update the status of the related application. The objection should now be withdrawn.

DRAWINGS

The Office Action objects to the drawings under 37 CFR § 1.83(a) for not showing every feature of the invention specified in the claims. Applicant respectfully notes that are required when necessary “for the understanding of the subject matter to be patented.” See 35 U.S.C. § 113. The features noted by the Examiner, including bandwidth determination, parameter setting, creation of showcase pages and advertisements, visual display of time measurement and windows that slide back and forth periodically, are sufficiently described in the specification to

be understood by those skilled in the art. Accordingly, drawings are not necessary for the understanding of these features. Thus, the objection should be withdrawn.

CLAIMS – REJECTIONS UNDER 35 U.S.C. § 112

Claims 3, 14-17, 21, 59 and 60 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has amended claims 3 and 21 to more clearly recite the invention. Claims 3 and 21 are now in definite form.

With respect to claims 14-17, the Office Action asserts that “it is not clear whether downloading is performed on the same ‘at least one computer system’ for both the first and second time.” Claim 14 recites that “the processor is provided in a user network device” and that both the first file and the second file are downloaded to the user network device. Claim 14 does not include any limitation including “at least one computer system.” Accordingly, the rejection of claim 14-17 under 35 U.S.C. § 112, second paragraph, appears to be erroneous. Applicant respectfully requests withdrawal of this rejection.

With respect to claims 59 and 60, the Office Action also asserts that “it is not clear whether downloading is performed on the same ‘at least one computer system’ for both the first and second time.” Claim 59 recites a server processor programmed to “download to at least one of the computer systems a first file” and to “download to at least one of the computer systems a second file.” Claim 59 does not limit the downloading to any specific computer system. Thus, the downloading the first file and downloading the second file may be to the same or different at least one computer system. Claims 59 and 60, therefore, are in definite form. Applicant respectfully requests withdrawal of this rejection.

CLAIMS – REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 2, 4-13 and 55-58 were rejected in the Office Action under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,567,800 to Barrera et al. (hereinafter “Barrera”). Applicant respectfully traverses this rejection for at least the following reasons.

The disclosed embodiments of the present invention relate to systems and methods for generating and dynamically updating an index of content items. Specifically, the disclosed embodiments provide systems and processes for on-line publishing of media content. In this regard, the embodiments provide a dynamically updateable graphical index of content contained within a creativity platform. The content items are stored on a storage device, and a processor is provided to dynamically update the index when content items are added, deleted or modified. The processor can “update dynamically the display of associated content items in response to addition, deletion or modification of content items.”

By contrast, Barrera relates to a system and method for searching websites for content and displaying category-content searches to a user. Barrera does not provide a platform for the addition, deletion or modification of content and the dynamic updating of a display. Rather, Barrera retrieves content from websites through a network based on search criteria. As the search is narrowed, contents items not within the scope of the narrowed search are dropped from the display. The “dynamic” index of Barrera is not updated in response to the addition, deletion or modification of content items, but rather based on search parameters provided by the user. Thus, Barrera fails to teach or suggest at least that feature of the invention as recited in independent claims 1, 12 and 55.

Accordingly, independent claims 1, 12 and 55 are patentable. Claims 2 and 4-11 depend, directly or indirectly, from allowable claim 1, claim 13 depends directly from allowable claim 12, and claims 56-58 depend, either directly or indirectly, from allowable claim 55. Thus, claims 2, 4-11, 13 and 56-58 are patentable for at least that reason, as well as additional patentable features when those claims are considered as a whole.

Claims 43-47 were rejected in the Office Action under 35 U.S.C. § 102(e) as being anticipated by U.S. Published Patent Application US2002/0032019 A1 to Marks et al. Claims 49-54 were rejected in the Office Action under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,128,663 to Thomas. Applicant has canceled claims 43-47 and 49-54 without prejudice or disclaimer. The rejection of those claims is, therefore, moot.

CLAIMS – REJECTIONS UNDER 35 U.S.C. § 103

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Barrera. Claim 3 depends directly from allowable claim 1 and is, therefore, patentable for at least that reason, as well as for additional patentable features when that claim is considered as a whole.

Claim 48 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Marks in view of U.S. Published Patent Application US2003/0066085 to Boyer et al. Applicant has canceled claim 48 without prejudice or disclaimer. The rejection of claim 48 is, therefore, moot.

Claims 14-17, 59 and 60 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Barrera in view of U.S. Published Patent Application US2002/0116518 to Silen et al. Claims 14-17 depend, either directly or indirectly, from allowable claim 1 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole. Similarly, claims 59 and 60 depend, either directly or indirectly, from allowable claim 55 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

Claims 20-39 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Barrera in view of U.S. Patent No. 6,317,784 to Mackintosh et al. Claims 20-39 depend, either directly or indirectly, from allowable claim 1 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

CLAIMS – DOUBLE-PATENTING REJECTION

Claims 43-48 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 38-41, 43 and 45 of copending U.S. Patent Application Serial No. 09/906,024. Applicant will, if appropriate, file a terminal disclaimer after an indication of allowance has been issued.

Applicant believes that the present application is now in condition for allowance.
Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date 10-11-04

FOLEY & LARDNER LLP
Customer Number: 23392
Telephone: (310) 975-7963
Facsimile: (310) 557-8475

By Sayer Dhand Reg # 51,182
for Ted R. Rittmaster
Attorney for Applicant
Registration No. 32,933